

09-0-1311

(Do Not Write Above This Line)

AN ORDINANCE
BY COMMITTEE ON COUNCIL

AN ORDINANCE TO AMEND
CHAPTER 114 (PERSONNEL),
ARTICLE I, (IN GENERAL), SECTION
114-2 (g) (STANDARDS OF
CONDUCT PRESCRIBED; PENALTY
FOR VIOLATION) OF THE CODE OF
ORDINANCES OF THE CITY OF
ATLANTA, GEORGIA, SO AS TO
INCLUDE ANY MEMBER OR
OFFICER OF A COMMISSION,
COUNCIL OR BOARD APPOINTED
BY AN ELECTED OFFICIAL OR
OFFICIALS OF THE CITY AND TO
CLARIFY THE DATE UPON WHICH
THE RESIGNATION OF ANY SUCH
MEMBER OR OFFICER SHALL BE
EFFECTIVE; TO WAIVE
CONFLICTING ORDINANCES; AND
FOR OTHER PURPOSES. ADOPTED BY

- ☐ CONSENT REFER AUG 17 2009
- ☐ REGULAR REPORT REFER
- ☐ ADVERTISE & REFER
- ☐ 1st ADOPT 2nd READ & REFER
- ☐ PERSONAL PAPER REFER

Date Referred 7/20/2009

Referred To: CAC

Date Referred 8/17/2009

Referred To: CAC

Date Referred

Referred To:

First Reading

Committee Subcommittee on Council
Date 7/20/09
Chair Shirley Smith
Referred To Committee on Council

Committee

Date 8/17/09

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

Committee

Date

Chair

Action

Fav, Adv, Hold (see rev. side)

Other

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd

Readings

☐ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

AUG 17 2009

CERTIFIED

AUG 17 2009

Shirley Smith
MUNICIPAL CLERK

MAYOR'S ACTION

VETO

AUG 17 2009

Shirley Smith

A SUBSTITUTE ORDINANCE

09-O-1311

BY COMMITTEE ON COUNCIL

AN ORDINANCE TO AMEND CHAPTER 114 (PERSONNEL), ARTICLE I, (IN GENERAL), SECTION 114-2 (g) (STANDARDS OF CONDUCT PRESCRIBED; PENALTY FOR VIOLATION) OF THE CODE OF ORDINANCES OF THE CITY OF ATLANTA, GEORGIA, SO AS TO INCLUDE ANY MEMBER OR OFFICER OF A COMMISSION, COUNCIL OR BOARD WHO IS APPOINTED OR CONFIRMED BY AN ELECTED OFFICIAL OR OFFICIALS OF THE CITY, AND TO CLARIFY THE DATE UPON WHICH THE RESIGNATION OF ANY SUCH MEMBER OR OFFICER SHALL BE EFFECTIVE; TO AMEND SUBSECTIONS (a), (b), (c), (d), (e) and (k) OF SECTION 114-2 SO AS TO CLARIFY SAID SUBSECTIONS; TO WAIVE CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, Section 114-2 (g) of the Code of Ordinances of the City of Atlanta, Georgia currently provides, in part, "if any member or officer of a commission, council or board created by the city ... offers for election to the office of mayor, president of the city council or member of the city council, such member or officer shall resign from such position with the city"; and

WHEREAS, excluded by the language of subsection (g) are members or officers of commissions, councils or boards which were not necessarily created by the city, but who were appointed or confirmed by an elected official or officials of the city; and

WHEREAS, the rationale and necessity of the avoidance of impropriety, conflicts of interest or the appearance of either or both, or the real, as well as the perceived position of advantage held by any such member or officer so serving, applies equally to both situations; and

WHEREAS, a current component of the effective date of resignation contained in subsection (g) is "the date of the filing as a candidate for office"; and

WHEREAS, this language is ambiguous and needs to be clarified; and

WHEREAS, several other subsections of Section 114-2 contain inartful language in need of clarification.

NOW, THEREFORE, THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, HEREBY ORDAINS as follows:

Section 1: Chapter 114 (Personnel), Article I, (In General), Section 114-2 (Standards of conduct prescribed; penalty for violation) of the Code of Ordinances of the City of Atlanta, Georgia, which currently provides as follows:

(a) Any employee offering for election to the office of mayor, president of the city council or member of the city council shall resign from the employee's position with the city, and such resignation shall be effective as of the date of announcement of such offering or as of the date of filing as a candidate for office, whichever is earlier.

(b) If an employee of the city offers for an elective office, other than those permitted in subsection (a) of this section, and the employee desires a leave of absence or, in the opinion of the department head, the campaign for the office will conflict with the employee's duties or work hours, the employee shall take a leave of absence as provided by section 114-422.

(c) No employee shall offer for an elective office without having first filed a written notification with such employee's department head of the employee's intent to file as a candidate for elective office. Such notification shall state the office the employee intends to seek, the governmental jurisdiction of the office, the dates of filing for candidacy and the date of the election.

(d) Should such employee be elected to an office which the department head determines interferes with or affects the employee's duties or hours of city employment, a separation shall be required at a time to be determined by the department head prior to the employee's assumption of the elective office.

(e) No employee, official or person shall knowingly solicit any assessments, contributions or services for any political party or candidate from any employee in the civil service.

(f) Nothing in this section shall affect the right of the employee to hold membership or office in or support a political party and to vote as the employee chooses.

(g) For the purposes of this section only, a public elected official of the city shall not be considered an employee except for subsection (e) of this section. However, if any member or officer of a commission, council or board created by the city or the chair or officer of any neighborhood planning unit or an elected neighborhood planning unit committee member offers for election to the office of mayor, president of the city council or member of the city council, such member, officer or chair shall resign from such position with the city or with the neighborhood planning unit. Such resignation shall be effective as of the date of the

public announcement of such offering or as of the date of the filing as a candidate for office, whichever is earlier.

(h) No person shall in any manner prevent or attempt to prevent the impartial execution of this chapter or policies or rules promulgated under this chapter.

(i) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or valuable consideration for any appointment, proposed appointment, promotion or proposed promotion or any advantage in any position with the city.

(j) No person shall defeat, deceive or obstruct any person in such person's right of application, eligibility, certification or appointment under this chapter or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

(k) Employees of the civil service of the city shall be subject to the following rules and regulations concerning political activity:

(1) No officer or employee shall use official authority or influence for the purpose of interfering with or affecting the result of any election or the nomination for any office.

(2) Nothing in this section shall be construed to restrict the right of an employee to express privately the employee's opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings after working hours.

(3) All employees shall comply with all applicable provisions of the Federal Hatch Political Activities Act as amended by the Federal Election Campaign Act Amendments of 1974, and any subsequent amendments thereto.

(l) Any person who shall violate subsection (h), (i) or (j) of this section shall, for the period of five years, be ineligible for appointment to or employment in a position with the city, and any officer or employee who shall violate any such subsection shall be dismissed from any office or position held by such officer or employee.

Is hereby repealed in its entirety with the following being substituted in lieu thereof:

(a) Any employee offering for election to the office of mayor, president of the city council or member of the city council shall resign from the employee's position with the city, and such resignation shall be effective as of the **date upon which such person files with the Office of the Municipal Clerk, her/his "Declaration of Intention to Accept Campaign Contributions" as prescribed by the State Ethics Commission, or as of the date upon which such person files with the Office of the Municipal Clerk, her/his "Notice of Candidacy and Affidavit", and pays the required qualifying fee, or files a pauper's affidavit in lieu thereof, as prescribed by O.C.G.A Sec. 21-2-132, or,**

if a write-in candidate, the date upon which such person files with the Office of the Municipal Clerk, her/his "Notice of Intent of Write-In Candidacy", as prescribed by O.C.G.A. Sec. 21-2-133, whichever first occurs.

(b) If an employee of the city offers for an elective office, other than those **indicated** in subsection (a) of this section, and the employee desires a leave of absence or, in the opinion of the department head, the campaign for the office will conflict with the employee's duties or work hours, the employee shall take a leave of absence as provided by section 114-422.

(c) No employee shall offer for an elective office without having first filed a written notification, with such employee's department head, of the employee's intent to file as a candidate for elective office. Such notification shall state the office the employee intends to seek, the governmental jurisdiction of the office, the dates of filing for candidacy and the date of the election.

(d) Should such employee be elected to an office which the department head determines interferes with or affects the employee's duties or hours of city employment, a separation shall be required at a time to be determined by the department head.

(e) No employee, official or person shall knowingly solicit any assessments, contributions or services for any political party or candidate from any employee of the city.

(f) Nothing in this section shall affect the right of the employee to hold membership or office in or support a political party and to vote as the employee chooses.

(g) For the purposes of this section only, a public elected official of the city shall not be considered an employee except for subsection (e) of this section. However, if any member or officer of a commission, council or board created by the city **or appointed or confirmed by an elected official or officials of the city, and is not then currently serving as an elected official of the city**, or the chair or officer of any neighborhood planning unit or an elected neighborhood planning unit committee member, offers for election to the office of mayor, president of the city council or member of the city council, such member, officer or chair shall resign from such position with **any such commission, council or board**, or with the neighborhood planning unit. Such resignation shall be effective as of the **date upon which such person files with the Office of the Municipal Clerk, her/his "Declaration of Intention to Accept Campaign Contributions"** as prescribed by the

State Ethics Commission, or as of the date upon which such person files with the Office of the Municipal Clerk, her/his "Notice of Candidacy and Affidavit", and pays the required qualifying fee, or files a pauper's affidavit in lieu thereof, as prescribed by O.C.G.A. Sec. 21-2-132, or, if a write-in candidate, the date upon which such person files with the Office of the Municipal Clerk, her/his "Notice of Intent of Write-In Candidacy", as prescribed by O.C.G.A. Sec. 21-2-133, whichever first occurs.

(h) No person shall in any manner prevent or attempt to prevent the impartial execution of this chapter or policies or rules promulgated under this chapter.

(i) No person shall, directly or indirectly, give, render, pay, offer, solicit or accept any money, service or valuable consideration for any appointment, proposed appointment, promotion or proposed promotion or any advantage in any position with the city.

(j) No person shall defeat, deceive or obstruct any person in such person's right of application, eligibility, certification or appointment under this chapter or furnish to any person any special or secret information for the purpose of affecting the rights or prospects of any person with respect to employment in the classified service.

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(1) No officer or employee shall use official authority or influence for the purpose of interfering with or affecting the result of any election or the nomination for any office.

(2) Nothing in this section shall be construed to restrict the right of an employee to express privately the employee's opinions on all political subjects and candidates, to maintain political neutrality and to attend political meetings after working hours.

(3) All employees shall comply with all applicable provisions of the Federal Hatch Political Activities Act as amended by the Federal Election Campaign Act Amendments of 1974, and any subsequent amendments thereto.

(l) Any person who shall violate subsection (h), (i) or (j) of this section shall, for the period of five years, be ineligible for appointment to or employment in a position with the city, and any officer or employee who shall violate any such subsection shall be dismissed from any office or position held by such officer or employee.

Section 2: All ordinances or parts of ordinances in conflict herewith are hereby waived to the extent of any such conflict.